



## **ENVIRONMENTAL PROTECTION AGENCY**

### **40 CFR Part 52**

**[EPA-R04-OAR-2009-0140; FRL-9821-9]**

#### **Approval and Promulgation of Air Quality Implementation Plans: North Carolina; Control Techniques Guidelines and Reasonably Available Control Technology**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Proposed rule.

**SUMMARY:** On May 1, 2013, the State of North Carolina, through the North Carolina Department of Environment and Natural Resources (NC DENR), submitted to EPA a state implementation plan (SIP) revision to satisfy North Carolina's commitment associated with the conditional approval of its reasonably available control technology (RACT) requirements for volatile organic compound (VOC) sources located in the North Carolina portion of the Charlotte – Gastonia – Rock Hill, North Carolina – South Carolina 1997 8-hour ozone nonattainment area (hereafter referred to as the “bi-state Charlotte Area”). NC DENR's May 1, 2013, SIP revision also includes additional changes to North Carolina's RACT rules. EPA is proposing to approve these SIP revisions to the State's RACT rules and to convert the existing conditional approval of VOC RACT provisions in the North Carolina SIP to a full approval under the Clean Air Act (CAA or Act). EPA has evaluated the proposed changes to North Carolina's SIP, and has made the preliminary determination that they are consistent with statutory and regulatory requirements and EPA guidance.

**DATES:** Comments must be received on or before [insert date 30 days from the date of publication in the Federal Register].

**ADDRESSES:** Submit your comments, identified by Docket ID No. EPA-R04-OAR-2009-0140 by one of the following methods:

1. [www.regulations.gov](http://www.regulations.gov): Follow the on-line instructions for submitting comments.
2. E-mail: [R4-RDS@epa.gov](mailto:R4-RDS@epa.gov).
3. Fax: (404) 562-9019.
4. Mail: “EPA-R04-OAR-2009-0140” Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960.
5. Hand Delivery or Courier: Lynorae Benjamin, Chief, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Such deliveries are only accepted during the Regional Office’s normal hours of operation. The Regional Office’s official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

*Instructions:* Direct your comments to Docket ID No. “EPA-R04-OAR-2009-0140.” EPA’s policy is that all comments received will be included in the public docket without change and may be made available online at [www.regulations.gov](http://www.regulations.gov), including any personal information provided, unless the comment includes information claimed to be Confidential Business

Information (CBI) or other information whose disclosure is restricted by statute. Do not submit through [www.regulations.gov](http://www.regulations.gov) or e-mail, information that you consider to be CBI or otherwise protected. The [www.regulations.gov](http://www.regulations.gov) website is an “anonymous access” system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through [www.regulations.gov](http://www.regulations.gov), your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD-ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA’s public docket visit the EPA Docket Center homepage at <http://www.epa.gov/epahome/dockets.htm>.

*Docket:* All documents in the electronic docket are listed in the [www.regulations.gov](http://www.regulations.gov) index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in [www.regulations.gov](http://www.regulations.gov) or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth

Street, SW, Atlanta, Georgia 30303-8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to schedule your inspection. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

**FOR FURTHER INFORMATION CONTACT:** Jane Spann, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street, SW, Atlanta, Georgia 30303-8960. Ms. Spann may be reached by phone at (404) 562-9029, or via electronic mail at [spann.jane@epa.gov](mailto:spann.jane@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

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### **I. Background**

On April 30, 2004, EPA designated the bi-state Charlotte Area as a moderate nonattainment area with respect to the 1997 8-hour ozone national ambient air quality standards

(NAAQS). *See* 69 FR 23858. The bi-state Charlotte Area includes six full counties and one partial county in North Carolina and one partial county in South Carolina. The South Carolina portion of the bi-state Charlotte Area consists of the portion of York County, South Carolina that falls within the Rock Hill-Fort Mill Area Transportation Study Metropolitan Planning Organization Area. The North Carolina portion of the bi-state Charlotte Area consists of Cabarrus, Gaston, Lincoln, Mecklenburg, Rowan, Union and a portion of Iredell County which includes Davidson and Coddle Creek Townships.<sup>1, 2</sup>

As a result of this designation, North Carolina and South Carolina were required to amend their SIPs for their respective portions of the bi-state Charlotte Area to satisfy the requirements of section 182 of the CAA. Today's action specifically addresses the North Carolina portion of the bi-state Charlotte Area. EPA approved the RACT requirements for the South Carolina portion of the bi-state Charlotte Area on November 28, 2011, at 76 FR 72844.

Section 182(b)(2) of the CAA requires states to adopt RACT rules for all areas designated nonattainment for ozone and classified as moderate or above. The three parts of the section 182(b)(2) RACT requirements are: (1) RACT for sources covered by an existing CTG (i.e., a CTG<sup>3</sup> issued prior to enactment of the 1990 amendments to the CAA); (2) RACT for

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<sup>1</sup> Effective July 20, 2012, EPA designated one full county and six partial counties in the Charlotte metropolitan area as a marginal nonattainment area for the 2008 8-hour ozone NAAQS. Today's proposed action regarding RACT is not related to requirements for the 2008 8-hour ozone NAAQS.

<sup>2</sup> Portions of the bi-state Charlotte Area were designated as a moderate nonattainment area for the 1-hour ozone NAAQS. The area was subsequently redesignated to attainment for the 1-hour ozone standard and a maintenance plan was approved into the North Carolina SIP. The original Charlotte – Gastonia, North Carolina 1-hour severe ozone nonattainment area consisted of Mecklenburg County and Gaston County, North Carolina. Today's proposed action regarding RACT is not related to requirements for the 1-hour ozone NAAQS.

<sup>3</sup> A CTG is a guidance document issued by EPA which, as a result of CAA section 182(b)(2), triggers a responsibility for states to submit, as part of their SIPs, RACT rules for stationary sources of VOC that are covered by the CTG. *See* 78 FR 15895.

sources covered by a post-enactment CTG; and (3) all major sources not covered by a CTG (i.e., non-CTG sources). Pursuant to 40 CFR 51.165, a major source for a moderate ozone area is a source that emits 100 tons per year or more of VOC or nitrogen oxides (NO<sub>x</sub>).

On May 9, 2013, EPA took final action to approve, in part, and conditionally approve in part, North Carolina SIP revisions submitted on October 14, 2004, April 6, 2007, June 15, 2007, January 31, 2008, November 19, 2008, September 18, 2009, February 3, 2010, April 6, 2010, and November 9, 2010, to address NO<sub>x</sub> RACT, VOC RACT and CTG requirements. Together, these SIP revisions established the RACT requirements for the major sources located in the North Carolina portion of the bi-state Charlotte Area. *See* 78 FR 27065.

NC DENR submitted a SIP revision on May 1, 2013, to address deficiencies with the State's VOC RACT rules as identified in EPA's May 9, 2013, conditional approval of North Carolina's VOC RACT rules.<sup>4</sup> North Carolina's May 1, 2013, SIP revision also included changes to rule 15A NCAC 02D.0903 (hereafter ".0903").<sup>5</sup>

## **II. EPA's Analysis of North Carolina's May 1, 2013, SIP Revision**

As described above, North Carolina revised its VOC regulations to address the deficiencies identified in EPA's May 9, 2013, conditional approval action. EPA's conditional approval was based on North Carolina finalizing their November 28, 2012, draft submittal, to correct deficiencies with the State's VOC RACT regulations. As previously mentioned, section

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<sup>4</sup> Although published on May 9, 2013, EPA's conditional approval final action was signed on April 29, 2013, prior to the Agency's receipt of the May 1, 2013, North Carolina submission to address the State's conditional approval commitments.

<sup>5</sup> A change to rule 15A NCAC 02Q.0102 (hereafter ".0102") is also included in the May 1, 2013, SIP revision. In today's rulemaking, EPA is not taking action on North Carolina's changes to rule .0102. EPA will contemplate action on these changes in a separate action.

182(b)(2) of the CAA requires RACT for all sources addressed by a CTG issued by EPA in areas classified as moderate nonattainment for ozone. North Carolina's previous RACT applicability rule, 15A NCAC 02D.0902 (hereafter ".0902"), however, applied only to facilities located in the Charlotte-Gastonia-Rock Hill, NC 8-hour ozone nonattainment area that have the potential to emit (PTE) greater than or equal to 100 tons of VOC per year. North Carolina's May 1, 2013, SIP revision corrects this deficiency by extending applicability to all VOC sources in the nonattainment area for all CTG source categories. In addition, North Carolina's May 1, 2013, SIP revision also addresses the conditional approval of rules 15A NCAC 02D.0909 (hereafter ".0909"), 15A NCAC 02D.0951 (hereafter ".0951"), 15A NCAC 02D.0961 (hereafter ".0961"), and 15A NCAC 02D.0962 (hereafter ".0962"). In today's action, EPA is proposing to approve North Carolina's changes to rules .0902, .0909, .0951, .0961, and .0962 as satisfying the deficiencies in the State's VOC RACT rules, and thus the Agency is also proposing to convert the May 9, 2013, conditional approval to a full approval for North Carolina VOC RACT rules.

North Carolina's May 1, 2013, SIP revision also proposes updates to rules .0903 and .0102. In today's action, EPA is proposing to approve the changes to rule .0903. EPA will take action on rule .0102 in a separate action. Below is a summary of the changes to each rule being proposed for approval in today's action.

#### **1. Rule .0902, "Applicability"**

North Carolina originally adopted rule .0902 in 1979, amended it a number of times and submitted this rule to EPA for approval. The following table shows the dates that rule .0902 was submitted to EPA and approved into the federally-approved SIP for North Carolina.

<b>Date State Submitted To EPA</b>	<b>Date of EPA Approval</b>	<b>Federal Register Approval</b>
November 8, 1984	December 19, 1986	51 FR 45468
January 7, 1994 and August 16, 1996	August 1, 1997	62 FR 41277
March 19, 1997	October 15, 1999	64 FR 55879
July 28, 2000	August 27, 2001	66 FR 34117

On November 9, 2010, North Carolina revised rule .0902 again. On May 9, 2013, EPA conditionally approved the November 9, 2010, version of rule .0902. *See* 78 FR 27065. On May 1, 2013, North Carolina submitted a SIP revision correcting deficiencies for the rule as identified in EPA’s May 9, 2013, conditional approval of this rule. Based on changes that North Carolina made to rule .0902 in a May 1, 2013, SIP revision, EPA is proposing to convert its May 9, 2013, conditional approval of rule .0902 to a full approval.

## 2. **Rule .0903, “Recordkeeping: Reporting, Monitoring”**

North Carolina originally adopted rule .0903 in 1979, amended it a number of times and submitted this rule to EPA for approval on November 8, 1984. EPA approved rule .0903 into the federally-approved North Carolina SIP on December 19, 1986, (51 FR 45468). The rule was amended again and submitted to EPA for SIP approval on April 16, 2001. EPA approved these amendments into the federally-approved North Carolina SIP on August 8, 2002 (67 FR 51461).

Changes to rule .0903 were submitted to EPA on May 1, 2013. EPA is proposing to approve the changes to rule .0903 as submitted on May 1, 2013.



3. **Rule .0909, “Compliance Schedules for Sources in Nonattainment Areas”**

Rule .0909 was changed a number of times and submitted to EPA for approval. It was revised to add compliance schedules for the facilities to comply with RACT requirements, became State effective on March 1, 2007, and was submitted to EPA for approval on April 6, 2007. Rule .0909 was amended to add compliance schedules for the facilities to comply with RACT requirements should the bi-state Charlotte Area fail to attain the 1997 8-hour ozone NAAQS and as a result be reclassified as serious area for that NAAQS. This rule was State effective on July 1, 2007, and was submitted to EPA for approval on January 31, 2008.

Subsequently, rule .0909 was amended to remove the reference to Stage II vapor recovery at Rules 15A NCAC 02D.0953, “Vapor Return Piping for Stage II Vapor Recovery,” and 15A NCAC 02D.0954, “Stage II Vapor Recovery,” as these provisions were repealed by the State. This amendment became State effective on January 1, 2009, and submitted to EPA for approval on September 18, 2009. Additionally, rule .0909 was amended to change cross-references, became State effective on September 1, 2010, and submitted to EPA for approval on November 9, 2010. On May 9, 2013, EPA conditionally approved the November 9, 2010, version of rule .0909, which comprehensively addressed the above mentioned revisions to this rule. *See* 78 FR 27065. Specifically, EPA conditionally approved the rule .0909 revisions based upon the State’s commitment to amend the rule to address RACT requirements for sources that emit less than 100 tpy of VOC. The State’s amendment to address this deficiency in rule .0909 became State effective on May 1, 2013, and submitted to EPA for approval on May 1, 2013. Based on these changes to rule .0909 contained in the May 1, 2013, SIP revision, EPA is proposing to convert its May 9, 2013, conditional approval of rule .0909 to a full approval.

#### **4. Rule .0951, “RACT for Sources of Volatile Organic Compounds”**

North Carolina originally adopted rule .0951 in 1994 and submitted this rule for EPA approval on August 16, 1995. EPA approved the August 16, 1995, submittal on August 1, 1997, at 62 FR 41277. Subsequently, North Carolina submitted rule .0951 amendments to EPA for approval into the federally-approved SIP on July 28, 2000. EPA approved these amendments on June 27, 2001, at 66 FR 34117. North Carolina again changed rule .0951 with a State effective date of September 1, 2010. The September 1, 2010, version of this rule was submitted to EPA on November 9, 2010, for SIP approval. Specifically, the rule was amended to change cross references to other Chapter 15A NCAC 02D.0900 rules.

On May 9, 2013, EPA conditionally approved the November 9, 2010, version of rule .0951. *See* 78 FR 27065. On May 1, 2013, North Carolina submitted a SIP revision correcting deficiencies for the rule as identified in EPA’s May 9, 2013, conditional approval of this rule. Based on these changes to rule .0951 in the May 1, 2013, SIP revision, EPA is proposing to convert its May 9, 2013, conditional approval of rule .0951 to a full approval. Additionally, EPA is proposing to approve a name change for rule .0951 as provided in North Carolina’s May 1, 2013, SIP revision. Specifically, North Carolina changed the title of rule .0951 from “Miscellaneous Volatile Organic Compound Emissions” to “RACT for Sources of Volatile Organic Compounds.”

## **5. Rule .0961, “Offset Lithographic Printing and Letterpress Printing”**

In December 1978, EPA published a CTG for graphic arts (rotogravure printing and flexographic printing) that included flexible packaging printing. On October 5, 2006 (71 FR 58745), EPA updated the 1978 CTG, as part of Group II CTG, addressing the control of VOC emissions from graphic arts systems consisting of packaging rotogravure, publication rotogravure or flexographic printing operations.

North Carolina originally adopted Rule 15A NCAC 02D.0936 (hereafter “.0936”), “Graphic Arts” in 1980, amended it, and then submitted it to EPA for approval on April 17, 1990. It was approved into the federally-approved North Carolina SIP on June 23, 1994 (59 FR 32362). In a November 9, 2010, SIP revision North Carolina repealed rule .0936, “Graphic Arts” and replaced it in part with rule .0961, “Offset Lithographic Printing and Letterpress Printing.” See 78 FR 15895, March 13, 2013, for more information regarding rule .0936, “Graphic Arts.”

On May 9, 2013, EPA conditionally approved the November 9, 2010, version of rule .0961. See 78 FR 27065. On May 1, 2013, North Carolina submitted a SIP revision correcting deficiencies for the rule as identified in EPA’s May 9, 2013, conditional approval of this rule. Based on these changes to rule .0961 in the May 1, 2013, SIP revision, EPA is proposing to convert its May 9, 2013, conditional approval of rule .0961 to a full approval.

## **6. Rule .0962, “Industrial Cleaning Solvents”**

On October 5, 2006 (71 FR 58745), as part of the Group II CTG, EPA updated the portion of the 1977 Solvent Metal Cleaning CTG regarding the control of VOC emissions from

the use of industrial cleaning solvents. North Carolina originally adopted rule .0962, on September 1, 2010, and submitted this rule to EPA for approval into the federally-approved North Carolina SIP on November 9, 2010. Rule .0962 was amended again, and submitted for EPA approval on May 1, 2013.

On May 9, 2013, EPA conditionally approved the November 9, 2010, version of rule .0962. *See* 78 FR 27065. On May 1, 2013, North Carolina submitted a SIP revision correcting deficiencies for the rule as identified in EPA's May 9, 2013, conditional approval of this rule. Based on these changes to rule .0962 in the May 1, 2013, SIP revision, EPA is proposing to convert its May 9, 2013, conditional approval of rule .0962 to a full approval.

### **III. Proposed Action**

Pursuant to section 110 of the CAA, EPA is proposing to approve the changes to North Carolina's SIP to address deficiencies with the State's VOC RACT rules at .0902, .0909, .0951, .0961, and .0962 for the North Carolina portion of the bi-state Charlotte Area as provided in a May 1, 2013, SIP revision. EPA has evaluated North Carolina's May 1, 2013, SIP revision, and has preliminarily determined that the changes to rules .0902, .0909, .0951, .0961, and .0962 meet the applicable requirements of the CAA and EPA regulations addressing VOC RACT requirements. As a result, EPA is also proposing to convert a May 9, 2013, conditional approval of rules .0902, .0909, .0951, .0961, and .0962, at 78 FR 27065, to a full approval.

Additionally, in today's action, EPA is proposing to approve changes to North Carolina's rule .0903, "Recordkeeping: Reporting, Monitoring," and to approve the name change for rule .0951 from "Miscellaneous Volatile Organic Compound Emissions" to "RACT for Sources of

Volatile Organic Compounds,” as provided in SIP revision on May 1, 2013. EPA has made the preliminary determination that North Carolina’s changes are consistent with the CAA and EPA’s regulations.

#### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA’s role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this proposal action:

- is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Order 12866 (58 FR 51735, October 4, 1993);
- does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- is not subject to requirements of Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this proposed rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the determination does not have substantial direct effects on an Indian Tribe. There are no Indian Tribes located within the North Carolina portion of the bi-state Charlotte nonattainment area.

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: May 30, 2013.

A. Stanley Meiburg,  
Acting Regional Administrator,  
Region 4.

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